IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

CRP.No. 902 of 2007

AGAINST THE ORDER DATED 26/06/2007 IN EP 2384/2004 IN OS.661/1999 OF PRL.MUNSIFF COURT, IRINJALAKUDA

.....

REVN. PETITIONER: PETITIONERS/JUDGEMENT DEBTORS

----

1. **RAGHUPATHI, S/O.KANATTIL NARAYANAN, KOTTANELLOOR DESAM, VELOOKKARA VILLAGE, MUKUNDAPURAM TALUK.**

2. **NANDINI, W/O.RAGHUPATHI S/O.KANATTIL NARAYANAN, KOTTANELLOOR DESAM, VELOOKKARA VILLAGE, MUKUNDAPURAM TALUK.**

3. **SHEELA, D/O.VETTIYATTIL KARAPPAN, ARIPPALAM DESAM, POOMANGALAM VILLAGE, MUKUNDAPURAM TALUK.**

BY ADV. SRI.K.S.RAJESH
SRI.M. SHAJU PURUSHOTHAMAN

RESPONDENTS: DECREE HOLDERS

----

1. **RAVEENDRA MENON (DIED) S/O.UNNIPARAMBATH DEVAKI AMMA, LOKAMALESWARAM VILLAGE, KODUNGALLUR TALUK, PROPRIETOR OF AKSHAYA FINANCIAL ENTERPRISES, VELLANGALLOR DESOM, MUKUNDAPURAM TALUK, LEGAL HEIRS:-**

2. **AMBIKA, W/O.RAVEENDRAN MENON (DIED) S/O.UNNIPARAMBATH DEVAKI AMMA, LOKAMALESWARAM VILLAGE, KODUNGALLUR TALUK, PROPRIETOR OF AKSHAYA FINANCIAL ENTERPRISES VELLANGALLOOR DESAM, MUKUNDAPURAM TALUK.**

C.R.P NO. 902/2007

3. SMITHA MENON,
D/O.RAVEENDRAN MENON (DIED)
S/O.UNNIPARAMBATH DEVAKI AMMA, LOKAMALESWARAM VILLAGE, KODUNGALLUR TALUK, PROPRIETOR OF AKSHAYA FINANCIAL ENTERPRISES VELLANGALLOOR DESAM, MUKUNDAPURAM TALUK.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

==========

C.R.P. No.902 OF 2007

==========

Dated this the 23rd day of October 2007

ORDER

This revision petition is preferred against the common order passed in E.P.No.2384/2004 in O.S.No.661/1999, E.P.No.2391/2004 in O.S.No.664/1999, E.P.No.2392/2004 in O.S.No.1548/2000, E.P.No.2394/2004 in O.S.No.737/1999 and E.P.No.2401/2004 in O.S.No.696/1999 of the Prl.Munsiff's Court, Inrinjalakkuda.

2. One Raveendranatha Menon is the decree holder. His legal representatives are the petitioners before the executing court. Respondents in the respective execution petitions contended that an execution petition cannot be filed without the production of a succession certificate as it is mandatory under Section 214(1)(b) of the Indian Succession Act. This point has been considered by this court in the decision reported in ***Valli v. Madhavan (1970 KLJ 312).*** This court held as follows: "Section 214(1)(b) is the provision that would apply to a case of an application by the legal representative to execute a decree. That section does not prohibit the entertainment of an application for execution by a Court if a succession

certificate is not produced along with such application. It only prohibits the Court from proceeding with the execution against the judgment-debtor upon an application by the legal representative of the deceased decree-holder except on the production of the succession certificate or other certificates mentioned in that section". The court also pointed out that if the prohibition was to be to the very institution of the application in a court of law for the purpose of execution, the words would have been "no court shall entertain" in the place of "no court shall proceed".

3. Learned counsel for the petitioners argues before me that the court was wrong in issuing notice. Whatever it may be, after the filing of the execution application, the decree holder has produced succession certificate and therefore he had complied with a mandate of the provisions under Section 214(1)(b) of the Indian Succession Act. The underlining principle under Section 214(1)(b) of the Act is to make sure that only the legal representative of a deceased alone comes before the court and withdraws the amount or proceeds of the execution so as to avoid unnecessary hardship to the judgment debtor. Here, in this case, the succession certificate is already produced and therefore the contention that the execution petitions are not maintainable cannot be accepted and there are no grounds to interfere with the decision rendered by the learned Munsiff.

Therefore, C.R.P. is devoid of merit and it is dismissed. At the same time, if petitioners are inclined to pay the amount in a reasonable time, they can make such a request to the court where the execution petition is pending and the court can consider the request after hearing the decree holder.

M.N.KRISHNAN, JUDGE

Cdp/-